



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,859	01/28/2004	Kevin Stamp	7095MH-1	2989
22442	7590	06/05/2007		
SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202			EXAMINER GRAY, PHILLIP A	
			ART UNIT 3767	PAPER NUMBER
			MAIL DATE 06/05/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/767,859

Applicant(s)

STAMP, KEVIN

Examiner

Phillip Gray

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26, 28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26, 28 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

This office action is in response to applicant's communication of 3/12/2007.  
Currently claims 1-26, and 28-29 are pending and stand rejected.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-16, 23, 28, and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Landau (U.S. Patent Number 7,156,823). Landau patent discloses a gas-powered single-use needle-less hypodermic jet injection apparatus and method. Landau discloses an outer housing (85) having a nozzle (40), an inner housing (60/72) located within the outer housing, a piston and ram (36) to drive the medicament, a pierceable gas cylinder (72/66) to drive the piston and ram, and a cooperating guide means of the inner housing and outer housing (80). Further Landau discloses that axial movement of the inner housing, guided by the cooperating guide means, enables a desired dose of medicament to be drawn into the nozzle ready for injection, wherein the desired dose can be an amount selected by a user from within a range of doses (see paragraphs beginning at column 4 line 1)

Landau discloses a visible dosage scale indicator that is a flexible indexer tab (84), a helical groove with pits and discrete tapered teeth (near 80), and vertical walled endstop for stopping indexer tab (end of 62), and a fixed locking retainer sleeve with a plurality of retention elements to engage the gas cylinder (72) in two positions for engagement and prevent movement (see figures 1-10). Further, Landau discloses a gas cylinder pierceable by a piercing means (68) within the inner housing, forward biased by a spring (102), further with a seat intermediate the cylinder (on 62), fixed inner member retainer sleeve (64).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landau '823 in view of Landau (U.S. Patent Application Number 2003/0093030). Landau '823 discloses the claimed invention except for the locking sleeve, fingered collet and button to control the cylinder movement. Landau '030 teaches that it is known to use the locking sleeve, fingered collet and button to control the cylinder movement, (as set forth in paragraphs from 18-32 and figures 1-4, 9-10), to prevent unwanted cylinder movement and provide a stable gas delivery. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the needle free injection device as taught by Landau '823 with the locking sleeve, fingered collet and button to control the cylinder movement as taught by Landau '030, since such a modification would provide the needle free injection device with the locking sleeve, fingered collet and button to control the cylinder movement prevent unwanted cylinder movement and provide a stable gas delivery.

Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landau '823 in view of Landau et al. (U.S. Patent Number 6,752,781). Landau '823 discloses the claimed invention except for the ram connected by frangible knuckle joints

Art Unit: 3767

to the inner housing. Landau '781 teaches that it is known to use ram connected by frangible knuckle joints to the inner housing, as set forth in column 10 and line 17 to column 11 line 64 (also figure 9-11), to provide a greater control of the ram and a lost motion preventer mechanism. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the needle free injection device as taught by Landau '823 with ram connected by frangible knuckle joints to the inner housing as taught by Landau '781, since such a modification would provide the needle free injection device with ram connected by frangible knuckle joints to the inner housing for providing a greater control of the ram and a lost motion preventer mechanism.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gray whose telephone number is (571) 272-7180. The examiner can normally be reached on Monday through Friday, 8:30 a.m. to 4:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3767

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PLD  
PAG

  
JUSTINE R. YU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700  
5/29/07